IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

Bail Appl..No. 4534 of 2007()

CRIME NO. 238/07 OF AROOR POLICE STATION

PETITIONERS/ACCUSED

---

1. BIJU @ BOBY, S/O.VISWANATHAN, BINDU NIVAS, ERAMALLOOR P.O., CHERTHALA.

2. RADHA, W/O.VISWANATHAN, BINDU NIVAS, ERAMALLOOR P.O., CHERTHALA.

BY ADV. SRI.C.K.SAJEEV

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 27/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

B.A.No. 4534 of 2007

- -

Dated this the 27th day of July, 2007

O R D E R

Application for anticipatory bail. The petitioners face allegations, inter alia, under Section 498A I.P.C. They are the husband and mother-in-law of the defacto complainant. The crime has been registered on the basis of a private complaint filed before the learned Magistrate and referred to the police under Section 156(3) Cr.P.C. Though various graver allegations have been raised in the course of investigation, the police have come to the conclusion that the petitioners need be further proceeded against for the offence under Section 498A I.P.C. only. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The marriage had taken place in 2001. The spouses are blessed with a child. The learned counsel for the petitioners submits that merely because of the strain in the matrimony, untenable allegations are raised to vex and harass the petitioners. Anticipatory bail may, in these circumstances, be granted to the petitioners, it is prayed.

3. The learned counsel for the petitioner prays, the learned Prosecutor does not seriously oppose the said prayer and I am satisfied in the facts and circumstances which I have briefly referred above, that this is a fit case where directions under Section 438 Cr.P.C. can be issued in favour of the petitioners. In coming to this conclusion I take note of the reality that if the petitioners were arrested and detained in custody, that would mar all possibilities of reconciliation of marital relationship. Appropriate conditions can, of course, be issued in the interests of a fair, efficient and expeditious investigation.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 3.8.2007 at 11 a.m. The learned Magistrate shall release them on regular bail on condition that they execute bonda for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 4.8.07 and

6.8.2007 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 3.8.07 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(d) If the petitioners were arrested prior to their surrender on 3.8.2007 as directed in clause (1) above, they shall be released from custody on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 3.8.2007.

(R. BASANT)
Judge

tm